

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FIREMAN'S FUND INSURANCE)
COMPANY,)
vs.)
FIRE SYSTEMS, INC.;) Civil Action
FIRE SUPPRESSION SYSTEMS) No. 04-11578
OF NEW ENGLAND, INC.;)
PRO CON, INC.,)
and)
PAQUETTE ELECTRIC COMPANY,))
INC.,)

CONTINUED DEPOSITION OF THOMAS J. KLEM, a
witness called on behalf of Fire Suppression
Systems of New England Inc., pursuant to the
applicable provisions of the Federal Rules of
Civil Procedure, before Jessica L. Bisailon, a
Registered Professional Reporter, Certified
Shorthand Reporter, and Notary Public in and for
the Commonwealth of Massachusetts, at the offices
of Morrison Mahoney LLP, 10 North Main Street,
Fall River, Massachusetts 02722, on Wednesday,
August 16, 2006, commencing at 1 p.m.

COPY

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Company, Inc.

1 A. Your logic is great, but I just am not going to
2 comment on that. I would defer to Jim Rogers or
3 others on that. I'm not a mechanic.

4 MR. DOWD: Thank you very much,
5 Mr. Klem.

6 (Off the record.)

7 REEXAMINATION BY MS. SEDNEY:

8 Q. Mr. Klem, again, my name is Jocelyn Sedney,
9 representing Fire Suppression Systems. I'm going
10 to follow up on some of the questions that you've
11 been asked today and then sort of continue on to
12 the extent that I need to --

13 A. Okay.

14 Q. -- from the other day.

15 I have been handed -- actually, and this
16 is sort of above and beyond each of those things,
17 but I was handed today by your counsel a letter
18 to you dated October 13th, 2003 from GAB Robins.
19 And in that letter, which it looks as though it's
20 the letter officially retaining you with respect
21 to this case, there's some discussion about Hodan
22 Properties having in their possession a portion
23 of the broken sprinkler pipe. Do you recall
24 that?

1 A. Yes.

2 Q. And he indicates that the same will not be
3 available for inspection until after the 27th,
4 which I assume that's after October 27th. He
5 then asks you to make arrangements with the
6 expert to inspect the piece of piping. Did you
7 ever do that?

8 A. No, I did not.

9 Q. And did you ever determine whether or not that
10 portion of the broken sprinkler pipe was
11 available for inspection?

12 A. I think it was, yes.

13 Q. And how did you determine that?

14 A. I had a letter from Papetti that I -- I actually
15 had in my file, and we mentioned last time
16 that that communicated that I chose to take a
17 look at the system first, then -- then look at
18 the broken pipe.

19 Q. Are you saying that first you wanted to look at
20 the system, then you wanted to look at the pipe?

21 A. Yes.

22 Q. And did you look at the pipe?

23 A. I did not.

24 Q. You simply didn't get around to it or why not?

1 A. I -- I just didn't do it.

2 Q. You don't have any particular reason, you just
3 didn't do it?

4 A. No. I saw enough documentation that -- you know,
5 that there was obviously a freeze that occurred
6 from photographic documentation, and I didn't see
7 the forensic value that I could lend to it beyond
8 that.

9 Q. So without having seen it, you determined that it
10 wasn't necessary for you to inspect it?

11 A. I didn't see any additional forensic value that I
12 could -- I could gain from the pipe that I hadn't
13 already seen in the photographic documentation.

14 Q. And you made that determination without having
15 actually seen it?

16 A. That's right. That's right.

17 Q. And your -- Mr. McDonald also asks if you could
18 please do something in terms of investigating
19 whether or not Massachusetts has a chain of
20 custody rule. And did you ever do that?

21 A. I did not.

22 Q. And he asked you to determine how the piece of
23 sprinkler pipe became in the possession of Hodan
24 Properties. Did you ever do that?

1 A. No, I did not.

2 Q. Do you have any idea where that piece of
3 sprinkler pipe or joint valve is now?

4 A. It's with Mr. Papetti, I presume, from his
5 correspondence to me.

6 Q. Now, when you say that it's with him based on the
7 correspondence, was that the letter that was sent
8 to you in November of 2003?

9 A. Yes.

10 Q. Have you talked to Mr. Papetti since November of
11 2003 as to whether or not he still has the
12 sprinkler pipe or joint valve?

13 A. No.

14 Q. Have you spoken to anybody after October 13 of
15 2003, the date of this letter, as to whether --
16 where that sprinkler pipe is now?

17 A. No.

18 Q. And I trust you didn't think it was important to
19 refer to this broken sprinkler pipe or valve in
20 either one of the reports that you've issued?

21 A. That's correct.

22 Q. Nor to mention that it was made available for you
23 for inspection, but you chose not to inspect it?

24 A. That's correct.

1 Q. Did you take any steps in this case with
2 reference to the other parties in this case to
3 inform them that in fact a portion of the
4 sprinkler pipe was available for inspection so
5 that they could take advantage of that
6 opportunity if they chose to?

7 A. No, I did not.

8 MS. SEDNEY: Okay. Let's mark this
9 letter as the next exhibit.

10 (Whereupon, Exhibit 18 was marked for
11 identification.)

12 Q. Earlier today, not too long ago, you referred to
13 a sample form that you indicated was a sample
14 form in reference to NFPA 72?

15 A. Yes.

16 Q. Is that correct?

17 A. Yes.

18 Q. And that's the sample form that relates to the
19 certification or the acceptance of the systems
20 that were installed or the fire protection
21 system?

22 A. Yes.

23 Q. And did you have any sample forms or documents
24 with respect to NFPA 25?